

MONTANA LEGISLATIVE HISTORY

Chapter 428 1981

Bill H 479 S _____

Original bill & history ✓ c

H. Committee on Natural Resources

S. Committee on Local Gov't

Hearing Date(s) 1/30 ✓ c

Hearing Date(s) 3/7 ✓ c

2/2 ✓ c

3/17 ✓ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE BILL NO. 479

INTRODUCED BY

Donald *Steve Brown*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "FLOODPLAIN"; AMENDING SECTION 76-5-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-5-103, MCA, is amended to read:

"76-5-103. Definitions. As used in parts 1 through 4 of this chapter, unless the context otherwise requires, the following definitions apply:

(1) "Artificial obstruction" means any obstruction which is not a natural obstruction and includes any dam, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill, or other analogous structure or matter in, along, across, or projecting into any floodplain or floodway which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

(2) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(3) "Channel" means the geographical area within either the natural or artificial banks of a watercourse or drainway.

(4) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(5) "Designated floodplain" means a floodplain whose limits have been designated and established by order of the board.

(6) "Designated floodway" means a floodway whose limits have been designated and established by order of the board.

(7) "Drainway" means any depression 2 feet or more below the surrounding land serving to give direction to a current of water less than 9 months of the year and having a bed and well-defined banks.

(8) "Establish" means construct, place, insert, or excavate.

(9) "Flood" means the water of any watercourse or drainway which is above the bank or outside the channel and banks of such watercourse or drainway.

(10) "Flood of 100-year frequency" means a flood magnitude expected to recur on the average of once every 100 years or a flood magnitude which has a 1% chance of occurring in any given year.

INTRODUCED BILL

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HB 479

1 (11) "Floodplain" means the area adjoining the
2 watercourse or drainway which would be covered by the
3 floodwater of a flood of 100-year frequency, except for
4 sheetflood areas that receive less than 1 foot of water per
5 occurrence and are considered "zone B" by the federal
6 emergency management agency.

7 (12) "Floodway" means the channel of a watercourse or
8 drainway and those portions of the floodplain adjoining the
9 channel which are reasonably required to carry and discharge
10 the floodwater of any watercourse or drainway.

11 (13) "Natural obstruction" means any rock, tree,
12 gravel, or analogous natural matter that is an obstruction
13 and has been located within the floodplain or floodway by a
14 nonhuman cause.

15 (14) "Owner" means any person who has dominion over,
16 control of, or title to an obstruction.

17 (15) "Political subdivision" means any incorporated
18 city or town or any county organized and having authority to
19 adopt and enforce land use regulations.

20 (16) "Responsible political subdivision" means a
21 political subdivision that has enacted land use regulations
22 in accordance with parts 1 through 4.

23 (17) "Watercourse" means any depression 2 feet or more
24 below the surrounding land serving to give direction to a
25 current of water at least 9 months of the year and having a

1 bed and well-defined banks; provided that it shall, upon
2 order of the board, also include any particular depression
3 which would not otherwise be within the definition of
4 watercourse."

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT
(Local Government)

That House Bill No. 479 be amended as follows:

1. Title, line 5.

Following: "MCA"

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 4.

Following: line 4

Insert: "Section 2. Effective date. This act is effective on
passage and approval."

HOUSE BILL NO. 479

INTRODUCED BY DONALDSON, S. BROWN

IN THE HOUSE

January 26, 1981	Introduced and referred to Committee on Natural Resources.
February 3, 1981	Committee recommend bill do pass. Report adopted.
February 4, 1981	Bill printed and placed on members' desks.
February 6, 1981	Second reading, do pass.
February 7, 1981	Considered correctly engrossed.
February 11, 1981	Third reading, passed. Ayes, 90; Noes, 5. Transmitted to Senate.

IN THE SENATE

February 12, 1981	Introduced and referred to Committee on Local Government.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.
March 31, 1981	Third reading, concurred in as amended. Ayes, 49; Noes, 0. On motion rules suspended. Bill allowed to be transmitted on 71st legislative day. Motion adopted.

IN THE HOUSE

April 1, 1981

Returned from Senate with amendments.

April 8, 1981

Second reading, amendments concurred in.

April 9, 1981

Third reading, amendments concurred in. Ayes, 93; Noes, 3. Sent to enrolling.

Reported correctly enrolled.

2ND READING: 3/20, BE CONCURRED IN
3RD READING: 3/23, YEAS: 49; NAYS: 0

RETURNED TO HOUSE: 3/23
TRANSMITTED TO GOVERNOR: 3/27
ACTION: SIGNED, 3/31
CHAPTER 217

HB 474—FABREGA, B. BROWN, SIVERTSEN—TO PROVIDE A GRADUATED SCHEDULE FOR THE TAX RATE APPLICABLE TO IMPROVEMENTS ON REAL PROPERTY....

FISCAL NOTE: REQUIRED
INTRODUCED: 1/24
REFERRED TO COMMITTEE ON TAXATION: 1/24
HEARING: 2/4
REPORT: DO PASS, 2/7
2ND READING: 2/11, YEAS: 87; NAYS: 7
3RD READING: 2/13, YEAS: 90; NAYS: 4

TRANSMITTED TO SENATE: 2/13
REFERRED TO COMMITTEE ON TAXATION: 2/14
HEARING: 3/13
REPORT: 4/21, BE CONCURRED IN
2ND READING: 4/22, BE CONCURRED IN
ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING
3RD READING: 4/22, YEAS: 44; NAYS: 1

RETURNED TO HOUSE: 4/22
TRANSMITTED TO GOVERNOR: 4/27
ACTION: SIGNED, 5/1
CHAPTER 599

HB 475—ERNST, BOYLAN—TO EXTEND THE SCHEDULE FOR LICENSE TAXES ON GASOLINE AND TO ELIMINATE THE GOVERNOR'S POWER TO SUSPEND THE SCHEDULE....

FISCAL NOTE: REQUIRED
INTRODUCED: 1/24
REFERRED TO COMMITTEE ON TAXATION: 1/24
HEARING: 2/4
BILL DIED IN COMMITTEE

HB 476—WALLIN—TO REQUIRE MANDATORY RESTITUTION OF AN AMOUNT EQUAL TO THREE TIMES THE VALUE OF THE PROPERTY STOLEN FROM THOSE PERSONS CONVICTED OF THEFTS....

INTRODUCED: 1/24
REFERRED TO COMMITTEE ON JUDICIARY: 1/24
HEARING: 2/2
REPORT: DO NOT PASS, 2/3
REPORT: ADOPTED, 2/5
BILL KILLED: 2/5 YEAS: 79; NAYS: 12

HB 477—ANDREASON, ELLISON—TO PROVIDE THAT A STATE GAME BIRD LICENSE IS REQUIRED TO HUNT UPLAND GAME BIRDS IN MONTANA AND THAT, IN ADDITION TO ANY FEDERAL REQUIREMENTS, ONLY A WILDLIFE CONSERVATION LICENSE IS REQUIRED TO HUNT MIGRATORY GAME BIRDS.

INTRODUCED: 1/26
REFERRED TO COMMITTEE ON FISH AND GAME: 1/26
HEARING: 2/5
REPORT: DO NOT PASS, 2/5
REPORT: ADOPTED, 2/7
BILL KILLED: 2/7 YEAS: 86; NAYS: 3

HB 478—SPILKER, HEALY, METCALF—AUTHORIZING THE ISSUANCE AND SALE OF \$5 MILLION PRINCIPAL AMOUNT LONG-RANGE BUILDING PROGRAM BONDS BY THE BOARD OF EXAMINERS TO FINANCE COSTS OF STATE CAPITOL IMPROVEMENT....

INTRODUCED: 1/26
REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/26
HEARING: 3/31
REPORT: DO PASS AS AMENDED, 4/10
ON MOTION, 4/13, PASSED FOR THE DAY.
2ND READING: 4/14, YEAS: 70; NAYS: 20
ON MOTION, 4/14, RULES SUSPENDED AND PLACED ON 3RD READING
3RD READING: 4/14, YEAS: 72; NAYS: 19

TRANSMITTED TO SENATE: 4/14
REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 4/15
HEARING: 4/20
REPORT: 4/20, BE CONCURRED IN
2ND READING: 4/21, YEAS: 30; NAYS: 10
3RD READING: 4/22, YEAS: 37; NAYS: 12

RETURNED TO HOUSE: 4/23

TRANSMITTED TO GOVERNOR: 4/27
ACTION: SIGNED, 5/1
CHAPTER 600

HB 479—DONALDSON, S. BROWN—REVISING THE DEFINITION OF "FLOODPLAIN".

INTRODUCED: 1/26
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/26
HEARING: 1/30
REPORT: DO PASS, 2/2
2ND READING: 2/6, YEAS: 90; NAYS: 1
3RD READING: 2/11, YEAS: 90; NAYS: 1

TRANSMITTED TO SENATE: 2/11
REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/12
HEARING: 3/7
REPORT: 3/26, BE CONCURRED IN, AS AMENDED
2ND READING: 3/28, BE CONCURRED IN
3RD READING: 3/31, YEAS: 49; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/31
2ND READING: 4/8, YEAS: 84; NAYS: 0
3RD READING: 4/9, YEAS: 93; NAYS: 3

TRANSMITTED TO GOVERNOR: 4/14
ACTION: SIGNED, 4/18
CHAPTER 428

HB 480—MAISKO, KEYSER, SCHULTZ, ET AL—TO REVISE THE YOUTH COURT ACT....

INTRODUCED: 1/26
REFERRED TO COMMITTEE ON JUDICIARY: 1/26
HEARING: 2/3
REPORT: DO PASS AS AMENDED, 2/3
2ND READING: 2/6, YEAS: 90; NAYS: 13
3RD READING: 2/11, YEAS: 80; NAYS: 17

TRANSMITTED TO SENATE: 2/11
REFERRED TO COMMITTEE ON JUDICIARY: 2/12
HEARING: 3/19

MINUTES

HOUSE NATURAL RESOURCES COMMITTEE

47TH LEGISLATURE 1981

MEMBERS:

DENNIS IVERSON, CHAIRMAN
JIM BURNETT, VICE CHAIRMAN
AUBYN CURTISS
WALTER SALES
GLENN MUELLER
KEN NORDTVEDT
TOM ASAY
VERNER BERTELSEN
JOHN HARP
AUDREY ROTH
CHUCK COZZENS
JOE QUILICI
HERB HUENNEKENS
MICHAEL KEEDY
ART SHELDEN
DAVE BROWN
HUBERT ABRAMS
TED NEUMAN
MARJORIE HART

Ellen Engstedt, Secretary

ROLL CALL

NATURAL RESOURCES

COMMITTEE

47TH LEGISLATIVE SESSION, 1981

KEY x - present
e - excused
a - absent

Name	JANUARY						Date FEBRUARY							
	7	9	12	16	23	26	28	30	2	4	6	9	11	13
Dennis Iverson, Ch.	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Jim Burnett, VC	x	a	x	a	a	x	e	x	x	x	x	x	x	x
Aubyn Curtiss	x	x	x	e	x	x	x	x	x	x	x	x	x	x
Walter Sales	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Glenn Mueller	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Ken Nordtvedt	x	x	x	x	e	x	x	x	x	x	x	x	x	x
Tom Asay	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Verner Bertelsen	x	x	e	x	x	x	x	x	x	x	x	x	x	x
John Harp	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Audrey Roth	x	e	x	x	e	x	x	x	x	x	x	x	x	x
Chuck Cozzens	x	x	x	x	x	x	x	x	a	e	x	x	x	x
Joe Quilici	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Herb Huennekens	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Michael Keedy	x	x	x	x	x	x	x	x	e	x	x	x	x	x
Art Sheldon	x	x	e	e	x	x	x	x	x	x	x	x	x	x
Dave Brown	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Hubert Abrams	x	x	x	x	e	x	x	x	x	x	x	x	x	x
Ted Neuman	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Marjorie Hart	x	x	x	x	x	x	x	x	x	x	e	x	x	x

ROLL CALL

NATURAL RESOURCES

COMMITTEE

47TH LEGISLATIVE SESSION, 1981

KEY x - present
 e - excused
 a - absent

[illegible]

ROLL CALL

NATURAL RESOURCES

COMMITTEE

47TH LEGISLATIVE SESSION, 1981

KEY x - present
e - excused
a - absent

Name	MARCH				APRIL				Date						
	26	27	28	30	1	3	13	22							
Dennis Iverson, Ch.	x	x	x	x	x	x	x	x							
Jim Burnett, VC	x	x	a	a	x	x	x	x							
Aubyn Curtiss	x	x	x	x	x	x	x	x							
Walter Sales	e	x	e	a	x	e	e	e							
Glenn Mueller	x	x	x	x	x	x	x	x							
Ken Nordtvedt	a	a	x	a	a	e	e	x							
Tom Asay	x	x	x	x	x	x	x	x							
Verner Bertelsen	e	x	x	x	x	x	x	x							
John Harp	x	x	e	x	x	x	x	x							
Audrey Roth	x	x	x	x	x	e	e	x							
Chuck Cozzens	x	x	x	x	x	e	e	e							
Joe Quilici	e	x	e	e	x	e	e	e							
Herb Huennekens	x	x	x	a	a	x	x	x							
Michael Keedy	x	x	x	x	x	x	e	x							
Art Sheldon	x	x	x	x	x	x	x	e							
Dave Brown	x	x	x	x	x	x	x	x							
Hubert Abrams	x	x	x	x	x	x	x	x							
Ted Neuman	e	x	x	x	x	e	e	x							
Marjorie Hart	x	x	x	x	x	x	x	e							

NATURAL RESOURCES COMMITTEE

47th Legislature

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Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
479	An act revising the definition of "floodplain"; ...	1/26/81	Donaldson, S. Brown	1/30/81	DO PASS	2/2/81
509	An act to provide for the administration of the residential conservation service in Montana.	1/27/81	Quilici, Dussault, Vincent, et.al.	2/4/81	AS AMENDED DO PASS	2/6/81
533	An act to remove the requirement that the value of state-owned coal be defined as the value before taxes for royalty purposes; ...	1/28/81	Huennekens	2/9/81	AS AMENDED DO PASS	2/18/81
SB 141	An act to allow the department of natural resources and conservation to award loans from the alternative energy research development ...	1/30/81	Dover	3/26/81	AS AMENDED BE CONCURRED IN	3/28/81
600	An act to impose additional constraints on the making of renewable resource development grants or loans; ...	1/31/81	Curtiss, et.al.	2/18/81	AS AMENDED DO PASS	2/21/81
607	An act amending section 75-20-219, MCA, to assign the burden of proof when application is made to amend a ...	2/2/81	Harp, D. Brown, et.al.	2/11/81	AS AMENDED DO PASS	2/14/81

THE MINUTES OF THE NATURAL RESOURCES COMMITTEE
JANUARY 30, 1981

The House Natural Resources Committee met in Room 104 in the Capitol Building on Friday, January 30, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and eighteen members present.

CHAIRMAN IVERSON opened the hearing on HB 479.

HOUSE BILL 479 REP. GENE DONALDSON presented the bill which would revise the definition of "floodplain". The only change in the current law is the definition on page 3, line 3.

PAUL SPENGLER, Director of the Lewis and Clark County Disaster Planning Department, spoke as a proponent of the bill. The county must adopt a flood plan program and want to define sheet-flood and floodplain for federal insurance reasons. He used a map to show areas of the Helena valley that are affected. It is something that would be beneficial to Lewis and Clark County but he sees no adverse problems for other counties if this law is changed.

WILL SELSER of the Lewis and Clark County Health Department spoke as a proponent also. Even though sometimes septic systems are flooded, he felt it does not present a health problem in this area and so is for the change this bill provides.

MIKE STEPHENS, representing the Montana Association of Counties, spoke in favor saying that counties need help in growing and with development problems.

PETE MCHUGH, a Helena valley landowner, supported the bill by saying growth is at a virtual stop in the Helena valley due to the definition of sheetflooding in the law.

JOHN WILKINSON, Chairman of the Lewis and Clark County Commissioners, supported the change also. This law currently makes it impossible to obtain a permit for a septic tank for a new home in this area, but would also make it impossible to obtain a permit to install a tank replacing an existing one.

There were no OPPONENTS.

REP. DONALDSON closed on the bill.

During questions from the committee, REP. HUENNEKENS asked if the Department of Natural Resources had been consulted about the change. MR. SPENGLER said they had talked to the engineers and it was determined to be a problem fairly unique to Lewis and Clark County but it is a state law.

Natural Resources
January 30, 1981
Page 2

REP. SALES asked what must be done to qualify for federal flood insurance. MR. SPENGLER replied there are certain restrictions involved.

REP. ROTH asked if the flood plan program is completely funded by the federal government. MR. SPENGLER said it is administered through the federal government but the county does derive benefits.

The hearing closed on HB 479 and opened on HB 465.

HOUSE BILL 465 REP. TOM ASAY presented the bill which would amend the definition of "preparatory work" to include construction of railroads in the strip and underground mine siting act. He feels we are allowing a federal agency i.e. I.C.C. to determine what happens in Montana. The State of Montana should have the say in building railroads. The same people should look at the whole project. There is an impact on an area made by a railroad.

HELEN WALLER spoke as a proponent and represented the Northern Plains Resource Council. See Exhibit 1.

GREG WALDIE of Miles City read a letter from GARY L. OCHSNER both supporting the bill. See Exhibit 2.

A chronology of events was presented showing permit process. See Exhibit 3.

ART HAYES, JR. presented Exhibit 4 in support of the bill.

TOM BREITBACH of Circle supported the bill. See Exhibit 5.

ED MALENOVSKY of Birney supported the bill. See Exhibit 6.

WALLACE MCRAE, Forsyth, spoke in favor of the bill. See Exhibit 7.

BILL GILLIN supported the bill saying it is time to see local people make the decisions. He wants it to be kept on a local basis with state people making the decisions.

KEITH POWELL and CHARLES GREEN of the Tongue River area spoke in support.

CONNIE EISSINGER testified for the McCone Agricultural Protection Organization. See Exhibit 8.

NICK GOLDER is interested in property rights. Someone must look at the whole project so everyone is protected.

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
FEBRUARY 2, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Monday, February 2, 1981, at 12:30 p.m. with CHAIRMAN DENNIS IVERSON presiding and sixteen members present (excused was REP. KEEDY and absent was REP. COZZENS).

EXECUTIVE SESSION HOUSE BILL 479 REP. CURTISS moved DO PASS with REP. MUELLER seconding.

REP. SHELDEN questioned whether or not "zone b" sufficiently defined sheetflooding. REP. HUENNEKENS explained that zone b type water is slow motion, stagnating water. He felt also that there will be a definite effect in some areas of the state.

HB 479 PASSED with REPS. HUENNEKENS, NEUMAN, and HARP opposing.

HOUSE BILL 397 REP. BERTELSEN moved DO PASS. REP. CURTISS provided a substitute motion of DO NOT PASS.

REP. CURTISS reiterated on some of the problems had by Vigilante Electric in trying to obtain a permit for the Toston Dam project. We should be able to utilize these sites but what we are doing is granting the Department of Natural Resources the right to decide who will and who won't get these permits.

REP. BERTELSEN asked who should do this. REP. CURTISS replied that it should be granted by the Federal Energy Regulatory Commission (FERC). It should not be considered by the department. REP. BERTELSEN said that would tie the hands of the department. Somebody should be responsible for the water leases. This bill would make it clear what is expected of the department.

REP. BROWN said he didn't see anything the department cannot already do being provided. He commented that Vigilante Electric didn't get the application because they missed the first deadline. He felt agricultural interests must come first and the power is the secondary use of that water.

REP. CURTISS agreed that agricultural interests should come first. The department was assisting Vigilante Electric with the application. The department did file the day after the deadline. REP. BROWN replied that Vigilante came to some energy people in Butte for help but not until the first deadline was about up. There wasn't much cooperation between the two.

REP. HUENNEKENS said the dams belong to the people of Montana and are there to serve the agricultural industry. Someone has to make a decision as to how and when hydroelectric development is placed at the dam. There is no point in cluttering up the process. We need to get going on it sometime.

1981

Senate

Local

Gov

COMMITTEE ON LOCAL GOVERNMENT

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT PASS <u>DATE</u>	DO NOT PASS <u>DATE</u>	DO PASS AS AMEND. <u>DATE</u>	BE CON- CURRED IN <u>DATE</u>	BE CONC. IN AS AMENDED <u>DATE</u>	BE NOT CON- CURRED IN <u>DATE</u>
473	03/02/81	03/17/81	03/17/81				03/17/81		
479	02/12/81	03/07/81	03/17/81					03/17/81	
498	02/20/81	03/12/81	03/17/81					03/17/81	
507	02/18/81	03/12/81	03/24/81					03/24/81	
555	03/03/81	03/24/81	03/24/81				03/24/81		
558	03/03/81	03/18/81	03/26/81					03/26/81	
562	02/21/81	03/12/81	03/17/81					03/17/81	
575	02/18/81	03/14/81	03/26/81						03/26/81
594	03/03/81	03/12/81	03/26/81						03/26/81
624	03/03/81	03/17/81	03/24/81					03/24/81	
643	02/18/81	03/14/81	03/17/81				03/17/81		
661	02/19/81	03/14/81	03/17/81				03/17/81		
693	03/03/81	03/12/81	03/17/81				03/17/81		
704	03/03/81	03/12/81	03/17/81					03/17/81	
712	03/03/81	03/17/81	03/17/81				03/17/81		
715	03/03/81	03/19/81	03/24/81						03/24/81

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
MARCH 7, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 12:30 p.m.

ROLL CALL: Senator Hammond was excused, all other members were present.

CONSIDERATION OF HOUSE BILL NO. 479:

AN ACT REVISING THE DEFINITION OF
"FLOODPLAIN."

Representative Donaldson, District No. 29, said this bill deals with a problem unique to Lewis and Clark County but does affect five other counties to some degree. The definition of floodplain creates a problem, it stops development in some areas. It also creates complications for floodplain insurance. They want to exempt sheetflood areas that receive less than one foot of water per occurrence and are considered "zone B" by the federal management agency. He submitted one minor amendment that would require the bill would have an immediate effective date. (See attached Exhibit A). They must effect the floodplain plan by April 1 of this year.

Paul Spengler, Lewis and Clark County, showed a chart of floodplains in the county. The law defines any flooding as part of a 100-year floodplain. The Montana Department of Health prohibits septic tank placement in a 100-year floodplain. He also showed the committee an aerial photo of the west Helena valley. It showed the chief flood area in question and a number of subdivisions they already have and some they are likely to develop in the future. One question is if House Bill No. 479 is passed, what ramifications would it have in the state, would it subvert completely the entire floodplain act of the state? The answer is no because Lewis and Clark County is unique in the enormous amount of area covered by sheetflooding. Beaverhead County has 30 acres of sheetflood, Wheatland County has a few acres of slough Powell County has a small area inside the city of Deer Lodge and Missoula County has some sheetflooding. None of these compare to Lewis and Clark County. The National Flood Insurance program requires they pass a resolution with land-use regulations in the 100-year floodplain. This area has been a sore spot with citizens in that part of the west Helena valley. If this area was deleted, the county could go ahead and adopt the resolution. As it is they will not be able to receive any federal disaster relief for people in the flood area, they would not be able to obtain flood insurance and federally insured mortgages would not be available for the people in a 100-year floodplain.

Senator Brown, co-sponsor of the bill, wanted to go on record as being a strong supporter of the bill. They have had the City-County Health Department look at the issue as to any health hazards that could possibly occur. They said there would be no long-term effects.

Will Selser, City-County Health Department, said there was a survey conducted at the request of the county commissioners. Five other states in this part of the country had a similar problem. The survey showed this could cause slight health problems but they would not be too severe. They concur with the study and support the amendment.

Bob Decker, Lewis and Clark county commissioner, gave some background of the bill. Lewis and Clark county commissioners are faced with a do or die situation in regard to insurance and loans if they do not adopt a floodplain resolution by April 1 of this year. If they do not adopt a resolution and say no, they will lose all federal loans and insurance. People feel this floodplain designation, unchanged, would be detrimental to the community. They have heard no protest against this proposal at the county level.

There were no opponents of the bill appearing before the committee.

Representative Donaldson added, in closing, that any type of flooding can create some health problems but they would be very minor. He urges the bill be concurred in.

Senator McCallum then called for questions from the committee.

Senator Van Valkenburg asked Mr. Spengler if people who live in the sheetflood area would be eligible for flood insurance with passage of this bill.

Mr. Spengler said there is a problem with the resolution as it stands with regard to land-use regulations. The resolution is needed to continue in the National Flood Insurance program. Families will lose it without the bill.

Senator Van Valkenburg said one answer you gave is that we need to pass the bill in order to legalize future development within the area. The second answer you gave was the people who live in the area are going to lose any flood insurance if this bill does not pass.

Mr. Spengler said that depends upon the county commissioners, if they pass the resolution or not. There is a problem with the inclusion of sheetflood area because whether county commissioners pass the resolution or not, the Department of Health will continue its regulations of septic tank placements.

Senator Van Valkenburg asked how we are going to change the federal definition of floodplain by changing the state definition.

Mr. Spengler said the state has gone farther in its definition of floodplain.

Senator O'Hara called on Mr. Decker to add to this.

Mr. Decker said if we pass the bill the people will be eligible for flood insurance in zone B. The alternative is if we do not pass the resolution, then they will not issue any more insurance and retract insurance from people who now have policies.

Senator McCallum asked if the county commissioners adopt the floodplain proposed by the federal government, will people who build in that area be able to receive flood insurance and until the county commissioners adopt the designated floodplain they cannot receive insurance.

Mr. Decker said he thinks that is right.

Senator Ochsner asked Representative Donaldson how far this was from the city limits or how close to being incorporated.

Representative Donaldson said it is about a mile from the city limits and annexation is barred in the foreseeable future.

Senator Ochsner asked if that would shut off city sewer and water until they got their own district.

Representative Donaldson said there has been a great concern with the people living in the area. Some have given thought to doing this. The cost is too high for the density of the area.

CONSIDERATION OF HOUSE BILL NO. 54:

AN ACT TO ALLOW MUNICIPALITIES TO SELECT THE
ANNEXATION PROCEDURE APPROPRIATE TO EACH
ANNEXATION SITUATION.

Representative Hurwitz, District No. 54, said this bill was introduced at the request of the study committee on annexation laws. It is a fairly simple bill. It asks that the governing body of a municipality may select an annexation procedure in parts 42 through 47 that is appropriate to the circumstances of that particular annexation. The municipal governing body must follow the specific procedures prescribed in the appropriate part. There are eight methods, currently, by which annexation may be accomplished. He urged a do pass.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/7/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond			✓
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

COMMENTS: Delete sheets

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Will I. Selser

3/7/81

122-12th Ave. Helena

442-4169

L+C Co. Health Dept

H.B. 479

✓

OPPOSE?

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Vito Becker DATE: 3/7/81

DATE: 2/7/81

ADDRESS: City/Co. Bldg. - Telera

PHONE: 442-1010

REPRESENTING WHOM? L.C. County

APPEARING ON WHICH PROPOSAL: 112 771

DO YOU: SUPPORT? X AMEND? OPPOSE?

SUPPORT? / AMEND? OPPOSE?

AMEND? _____ OPPOSE? _____

OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Amendment to House Bill 479 to provide an immediate effective date.

By Representative Donaldson

1. Title, line 5.

Following: "MCA"

Insert: ";AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 4, line 4.

Following: line 4

Insert: "Section 2. Effective date. This act is effective on passage and approval."

Mr. Mizner said in many cases there is only one business in town that offers certain merchandise or services. One instance where you would probably have to contract with the business would be for a backhoe if the city water main were to break.

Senator McCallum said the owner of that business would have a conflict of interest if he was on the city council.

Mr. Mizner said the council would have to decide if they wanted to contract with him.

Representative Neuman said presently if you file with the Secretary of State saying you do have a conflict of interest, you cannot give a contract. This would be for short-term services, not long term. This would not include things let out for bids.

Senator McCallum said he could not see where you would have to have a contract in a lot of instances.

Representative Neuman said the provision "because of geographical restrictions" means if there is anyone else that will do the service at a reasonable cost, they would have to take him if there was no conflict of interest. If no one else is available, this bill allows the city to contract with conflict of interest persons.

DISPOSITION OF HOUSE BILL 712: Senator Thomas motioned the bill be concurred in. The motion carried unanimously, Senator Hammond was excused.

DISPOSITION OF HOUSE BILL 473: Senator Thomas motioned the bill be concurred in. The motion carried unanimously, Senator Hammond was excused.

DISPOSITION OF HOUSE BILL 479: Senator Van Valkenburg said he thinks this is a good bill, he could find no problems with it. The Helena people want an immediate effective date on it because they have to adopt a resolution by April 1. He moved to amend the bill to provide for an immediate effective date, to be effective upon passage and approval. The motion carried unanimously.

Senator Van Valkenburg then moved the bill be concurred in as amended. The motion carried unanimously, Senator Hammond was excused.

CONSIDERATION OF HOUSE BILL 624:

AN ACT TO INCREASE THE FEES CHARGED BY THE
COUNTY CLERKS FOR RECORDING, FILING, AND
COPYING SERVICES, REMOVING PROVISIONS THAT
ARE OUTDATED.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/17/81

NAME	PRESENT	ABSENT	EXCUSED
Senator George McCallum	✓		
Senator Jesse O'Hara	✓		
Senator H. W. Hammond			✓
Senator J. Donald Ochsner	✓		
Senator Bill Thomas	✓		
Senator Max Conover	✓		
Senator Fred Van Valkenburg	✓		

Each day attach to minutes.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 3/17/61 House Bill No. 479 Time 12:30

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	Excused	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Van Valkenburg moved the bill
be concurred in as amended.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 17

31

10

PRESIDENT

MR.

LOCAL GOVERNMENT

We, your committee on

HOUSE

having had under consideration Bill No. 479

DONALDSON (BROWN)

Respectfully report as follows: That HOUSE Bill No. 479

third reading (blue) copy be amended as follows:

1. Title, line 5.

Following: "MCA"

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 4.

Following: line 4

Insert: "Section 2. Effective date. This act is effective on passage and approval."

And, as so amended, BE CONCURRED IN

~~DOXASSY~~